

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROY L. HOOD and GARY L. NOEDEL

Appeal 2009-014331
Application 10/814,679
Technology Center 1700

Mailed: December 11, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 07, 2009. A Docketing Notice was mailed and Appeal No. 2009-014331 was assigned on July 07, 2009. A review of the application has revealed that the application was not ready for an appeal.

APPEAL BRIEF

A review of the file finds that the Appeal Brief filed December 12, 2008 is defective for the following reason, the Appeal Brief cited in the Evidence Appendix new evidence which was not cited on the Evidence Appendix page or on a Form 1464 (IDS) for the Examiner to review and acknowledge for consideration.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to reopen prosecution in accordance with the Appellants' December 12, 2008 request.

- 1) to hold the Appeal Brief filed on December 12, 2008 defective;
- 2) notify Appellant to file a paper properly addressing the newly submitted Evidence Appendix; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/jgr

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